

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

DAVID BARBA
and FRED H. GAGE
(5,529,774),

Junior Party,

v.

XANDRA O. BREAKFIELD,
ROBERT L. MARTUZA, and M. PRISCILLA SHORT
(08/462,500),

Senior Party.

Interference No. 104,551

Before TORCZON, SPIEGEL, and GARDNER-LANE, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

JUDGMENT
(PURSUANT TO 37 CFR § 1.662(a))

INTRODUCTION

Junior party Barba has abandoned the contest for the sole count (Paper No. 32).

ORDER

Accordingly, it is

ORDERED that judgment on priority as to Count 1 is awarded against Barba;

FURTHER ORDERED that Barba is not entitled to a patent containing claims 1-9 of its involved patent, which correspond to Count 1;

FURTHER ORDERED that, based on the record before us, senior party Breakefield is entitled to a patent containing claim 38 of its involved application, which corresponds to Count 1; and

FURTHER ORDERED that a copy of this decision be given a paper number and be entered in the administrative record of Barba's involved patent and Breakefield's involved application.

RICHARD TORCZON
Administrative Patent Judge

CAROL A. SPIEGEL
Administrative Patent Judge

SALLY GARDNER-LANE
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

INTERFERENCE
TRIAL SECTION

cc (first-class mail):

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